WR Grace

SR00000636

Bankruptcy Form 10

Index Sheet

Claim Number: 00013946 Receive Date: 03/31/2003

Multiple Claim Reference

Claim Number _____

- ☐ MMPOC Medical Monitoring Claim Form
- ☐ PDPOC Property Damage
- ☐ NAPO Non-Asbestos Claim Form
- ☐ Amended

Claim Number _____

- ☐ MMPOC Medical Monitoring Claim Form
- ☐ PDPOC Property Damage
- ☐ NAPO Non-Asbestos Claim Form
- ☐ Amended

Attorney Information

Firm Number: 00360 Firm Name: Locke Liddell & Sapp LLP

Attorney Number: 00239 Attorney Name: Peter A Franklin III

Zip Code: 75201

Cover Letter Location Number: SR00000636

Attachments Medical Monitoring	Attachments Property Damage	Non-Asbestos
☐ TBD	☐ TBD	☒ Other Attachments
☐ TBD	☐ TBD	
☐ TBD	☐ TBD	
☐ TBD	☐ TBD	
☐ TBD	☐ TBD	
	☐ Other Attachments	
Other	☐ Non-Standard Form	
	☐ Amended	
	☐ Post-Deadline Postmark Date	

B10 (Official Form 10) (4/98)

UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE

PROOF OF CLAIM

Name of Debtor **Grace Energy Corporation**

Case Number: **01-1165**

NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C.§ 503.

Name of Creditor (The person or other entity to whom the debtor owes money or property) **Samson Hydrocarbons Company**

Name and address where notices should be sent:
Locke Liddell & Sapp LLP
c/o Peter A. Franklin III
2200 Ross Avenue, Suite 2200
Dallas, Texas 75201

Telephone number: **(214) 740-8000**

☐ Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.

☐ Check box if you have never received any notices from the bankruptcy court in this case

☒ Check box if the address differs from the address on the envelope sent to you by the court.

THIS SPACE IS FOR COURT USE ONLY

Corporate Name, Common Name, and d/b/a name of specific Debtor against whom the claim is asserted: Grace Energy Corporation

Account or other number by which creditor identifies debtor:

Check here ☐ replaces
if this claim ☐ amends a previously filed claim, dated: _____

1. Basis for Claim

☐ Goods sold
☐ Services performed
☐ Money loaned
☐ Personal injury/wrongful death
☐ Taxes
☒ Other Contractual Indemnity

☐ Retiree benefits as defined in 11 U.S.C. § 1114(a)
☐ Wages, salaries, and compensation (fill our below)
Your SS #:_____ _____ _____
Unpaid compensation for services performed
From _____ to _____
(date) (date)

2. Date debt was incurred: Various, See Exhibit A.

3. If court judgment, date obtained:

4. Total Amount of Claim at Time Case Filed: $ See Exhibit A.

If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below.

☐ Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.

☐ SECURED CLAIM: (Check this box if your claim is secured by collateral, including a right of setoff)

Brief Description of Collateral:

☐ Real Estate ☐ Other:

Amount of arrearage and other charges at time case field included in secured claim, if any: $_____

☐ UNSECURED NONPRIORITY CLAIM

☐ UNSECURED PRIORITY CLAIM - Specify the priority of the claim:

☐ Wages, Salaries, or commissions (up to $4,300), * earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. § 507(a)(3).

☐ Contributions to an employee benefit plan – 11 U.S.C. § 507(a)(4).

☐ Taxes or penalties owed to governmental units – 11 U.S.C. § 507(a)(8).

☐ Other Specify applicable paragraph of 11 U.S.C. § 507(a)(_____).

7. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

8. Supporting Documents: *Attach copies of supporting documents,* such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If documents are not available, explain. If the documents are voluminous, attach a summary.

9. Date – Stamped Copy: To receive an acknowledgement of the filing of your claim, enclose a stamped, self – addressed envelope and copy of this proof of claim.

THIS SPACE IS FOR COURT USE ONLY

Date
3/28/2003

Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any):

Dennis R. Neill, President

WR Grace BF.46.181.9034
00013946
SR=636

Penalty for presenting fraudulent claim: Fine of up to $500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

REC'D MAR 31 2003

INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In particular types of cases or circumstances, such as bankruptcy cases that are not filed voluntarily by a debtor; there may be exceptions to these general rules.

- DEFINITIONS -

Debtor
The person, corporation, or other entity that has filed a bankruptcy case is called the debtor.

Creditor
A creditor is any person, corporation, or other entity to whom the debtor owed a debt on the date that the bankruptcy case was filed.

Proof of Claim
A form telling the bankruptcy court how much the debtor owed a creditor at the time the bankruptcy case was filed (the amount of the creditor's claim). This form must be filed with the clerk of the bankruptcy court where the bankruptcy case was filed.

Secured Claim
A claim is a secured claim to the extent that the creditor has a lien on the property of the debtor (collateral) that gives the creditor the right to be paid from that property before creditors who do not have liens on the property.

Examples of liens are a mortgage on real estate and a security interest in a car, truck, boat, television set, or other item of property. A lien may have been obtained through a court proceeding before a bankruptcy case began; in some states a court judgment is a lien. In addition, to the extent a creditor also owes money to the debtor (has a right of setoff), the creditor's claim may be a secured claim. (See also *Unsecured Claim)*

Unsecured Claim
If a claim is nt a secured claim it is an unsecured claim. A claim may be partly secured and partly unsecured if the property on which a creditor has a lien is not worth enough to pay the creditor in full.

Unsecured Priority Claim
Certain types of unsecured claims are given priority, so they are to be paid in bankruptcy cases before most other unsecured claims (if there is sufficient money or property available to pay these claims). The most common types of priority claims are listed on the proof of claim form. Unsecured claims that are not specifically given priority status by the bankruptcy laws are classified as *Unsecured Nonpriority Claims.*

ITEMS TO BE COMPLETED IN PROFF OF CLAIM FORM (IF NOT ALREADY FILLED IN)

Court, Name of Debtor, and Case Number:
Fill in the name of the federal judicial district where the bankruptcy case was filed (for example, Central District of California), the name of the debtor in the bankruptcy case, and the bankruptcy case number. If you received a notice of the case from the court, all of this information is near the top of the notice.

Information about Creditor:
Complete the section giving the name, address, and telephone number of the creditor to whom the debtor owes money or property, and the debtor's account number, if any. If anyone else has already filed a proof of claim relating to this debt, if you never received notices from the bankruptcy court about this case, if your address differs from that to which the court sent notice, or it this proof of claim replaces or changes a proof of claim that was already filed, check the appropriate box on the form.

1. Basis for Claim:
Check the type of debt for which the proof of claim is being filed. If the type of debt is not listed, check "Other" and briefly describe the type of debt. If you were an employee of the debtor, fill in your social security number and the dates of work for which you were not paid.

2. Date Debt Incurred:
Fill in the date when the debt first was owed by the debtor.

3. Court Judgments:
If you have a court judgment for this debt, state the date the court entered the judgment.

4. Total Amount of Claim at Time Case Filed:
Fill in the total amount of the entire claim. If interest or other charges in addition to the principal amount of the claim are included, check the appropriate place on the form and attach an itemization of the interest and charges.

5. Secured Claim:
Check the appropriate place if the claim is a secured claim. You must state the type and value of property that is collateral for the claim, attach copies of the documentation of your lien, and state the amount past due on the claim as of the date the bankruptcy case was filed. A claim may be partly secured and partly unsecured. (See DEFINITIONS, above).

6. Unsecured Priority Claim:
Check the appropriate place if you have an unsecured priority claim, and state the amount entitled to priority. (See DEFINITIONS, above). A claim may be partly priority and partly nonpriority, if, for example, the claim is for more than the amount given priority by the law. Check the appropriate place to specify the type of priority claim.

7. Credits:
By signing this proof of claim, you are stating under oath that in calculating the amount of your claim you have given the debtor credit for all payments received from the debtor.

8. Supporting Documents:
You must attach to this proof of claim form copies of documents that show the debtor owes the debt claimed or, if the documents are too lengthy, a summary of those documents. If documents are not available, you must attach an explanation of why they are not available.

EXHIBIT A

Samson Hydrocarbons Company's indemnity claims, described below, are entitled to administrative priority status. Samson Hydrocarbons Company ("Samson Hydrocarbons") is filing proofs of claim before the bar date in order to protect itself in the event that the court determines (which Samson Hydrocarbons contends it should not) that Samson Hydrocarbons' indemnity claims are not entitled to administrative priority and constitute unsecured claims.

I.

THE AGREEMENTS

The relationship between Grace Energy Corporation, a Delaware Corporation and its parent corporation, W.R. Grace & Co. – Conn. (collectively, "Grace") on one side and Samson Investment Company ("Samson Investment"), a Nevada Corporation and its wholly-owned subsidiary Samson Hydrocarbons (collectively, "Samson") on the other side with respect to the claims described herein is governed by, *inter alia*, four contracts between Samson and Grace: (i) the December 30, 1992 Grace Petroleum Stock Purchase Agreement (the "Purchase Agreement"); (ii) the March 31, 1994 Settlement and Release Agreement (the "1994 Agreement"); (iii) the November 30, 1998 Second Settlement and Release Agreement (the "1998 Agreement") (collectively, the "Agreements"); and (iv) the "Payment of Settlement, Joint Defense and Confidentiality Agreement" entered into with respect to the Casmalia Disposal Site (the "Casmalia Defense Agreement"). The Agreements and the Casmalia Defense Agreement are too voluminous to attach; however, copies will be provided upon request to Samson's counsel.

A. The Purchase Agreement.

On December 30, 1992, Grace and Samson Investment entered into the Purchase Agreement. Pursuant to the Purchase Agreement, Samson Investment purchased all of the outstanding shares of Grace Petroleum Corporation ("Grace Petroleum") from Grace, including all shares of all of Grace Petroleum's wholly owned subsidiaries.

Article XIII of the Purchase Agreement contains an indemnity. Specifically, Grace is obligated to indemnify Samson for

> (iii) the environmental condition of any gas, oil and mineral leases and any other properties, including, but not limited to, gas plants and treatment facilities in which any of the Corporations or their respective predecessors previously owned an interest but in which the Corporations or any of their respective predecessors no longer own an interest as of the Closing Date, (iv) the environmental condition of any Leased Properties, Oil, Gas and Mineral Leases, Producing Properties, Properties or Related Facilities as set forth in the schedule to Section 6.09 or as assumed by Seller pursuant to Section 11.04...

Section 13.03(e) of the Purchase Agreement provides that Grace's indemnity obligation under Sections 13.03(a)(3) and (4) is not limited in time. Section 13.05 of the Purchase

Agreement provides that upon proper notice, Grace will defend Samson against any Third Party Claims.[1] The Purchase Agreement provides that Grace should notify Samson that it will undertake such defense within ten (10) days after it receives notice that it is obligated to undertake such defense. *See* Purchase Agreement, § 13.05. If Grace does not undertake such defense, Samson may defend itself and Grace must pay all Litigation Expenses, as that term is defined in the Purchase Agreement. *Id.*

B. <u>The 1994 Agreement.</u>

On March 31, 1994, Grace and Samson Investment entered into the 1994 Agreement. Sections 5.01 through 5.05 of the Purchase Agreement provided for an adjustment to the purchase price set forth in the Purchase Agreement. Among other things in the 1994 Agreement, Grace agreed to indemnify and defend Samson Investment in certain actions specified in paragraph 5 of the 1994 Agreement. The 1994 Agreement provides that:

> nothing contained herein shall prevent Samson from submitting additional claims to Grace pursuant to the terms and conditions of the Agreement to the extent such claims either (i) arise from and after the date hereof, or (ii) were outside the scope of the personal knowledge of the above-named individuals on the date hereof. Subject to the terms and conditions of the Agreement, Grace will indemnify Samson for any such claims.

C. <u>The 1998 Agreement.</u>

On November 30, 1998, Grace and Samson Investment entered into the 1998 Agreement. In the 1998 Agreement, Grace acknowledged that there were other outstanding claims for which Samson was entitled to indemnification from Grace. The 1998 Agreement provided that "Grace and Samson desire to fully and finally settle, compromise and resolve as between themselves the responsibility for defending and providing indemnification for the Samson Claims." 1998 Agreement at 4.

The 1998 Agreement states that part of the consideration for the 1998 Agreement is Grace's indemnification of Samson "with respect to those certain environmental claims relating to the Otis Pipeline as more fully set forth in paragraph 1.A.(k) hereof...". The claims set forth in paragraph 1.A. include, among others,

> (k) that certain claim made by Samson pursuant to letters dated September 6, 1994 and December 15, 1995, jointly attached hereto as Exhibit 'E(7)' ('The Massachusetts Department of Environmental Protection and the U.S. Department of Justice, acting on behalf of the U.S. Department of Defense, investigation of, and inquiry into, the Otis Pipeline running from Cape Cod Canal to Otis Air National Guard Base near the town of Sandwich, Massachusetts').

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[1] "Third Party Claims" is defined in paragraph 13.01(h) of the Purchase Agreement as "any and all claims, demands, suits, actions or proceedings by any person or entity, other than Purchaser or Seller or their respective affiliates arising prior to the Closing Date."

D. The Casmalia Defense Agreement

Samson and Grace (collectively, the "Parties") entered into the Casmalia Defense Agreement effective January 31, 2001. The Casmalia Defense Agreement allowed the Parties to participate, along with other potentially responsible parties, in the defense of claims made by the EPA, the State of California and the "Casmalia Resources Site Steering Committee" (the "CRSSC") with respect to the Casmalia Resources Hazardous Waste Disposal Site (the "Casmalia Site"). In the Casmalia Defense Agreement, Grace and Samson Hydrocarbons agreed to participate in the defense of the Casmalia matter as part of the "Tier II PRP Group." *See* Casmalia Defense Agreement, at 1, ¶ 1. The Casmalia Defense Agreement provided that Samson and Grace would pay their own legal expenses, but specifically reserved any rights either of them may have to seek recovery of its legal expenses from any or all of the other Parties. *Id.* at 2, ¶ 5. Samson and Grace each agreed to pay one half of Samson Hydrocarbons' "expenses or assessments" to remain part of the Tier II PRP Group. *Id.*, ¶ 6. Samson and Grace each also agreed to pay one-half of Samson Hydrocarbons' share of any settlement entered into by the Tier II PRP Group with the United States, the State of California or the CRSSC. *Id.* at 2-3, ¶ 7. The Casmalia Defense Agreement also contains a reservation of rights permitting any of the Parties to seek relief against the other Parties for claims related to the Casmalia Site (*Id.* at 4, ¶ 12) and a denial of liability specifically acknowledging a disagreement among the Parties as to the ultimate liability for any claims arising from the Casmalia Site (although each of the Parties denies any liability for the Casmalia Site). *Id.* at 3-4, ¶ 12.

II.

SAMSON HYDROCARBONS' CLAIMS

A. Otis Pipeline

The Commonwealth of Massachusetts and the United States Department of Justice have each asserted claims against Samson Hydrocarbons related to a jet fuel pipeline connecting a port terminal near the Town of Sandwich, Massachusetts to a storage terminal located within the former Otis Air Force Base (the "Otis Pipeline"). On March 4, 1994, Samson Hydrocarbons received a Notice Terminating Consent to Easement, in which the United States Department of the Army alleged that there had been leakage from the Otis Pipeline. On November 28, 1995, the Massachusetts Department of Environmental Protection (the "MDEP") issued a Notice of Responsibility to SNG Production Company (now Samson Hydrocarbons) stating that the site described therein required "the performance of response actions to prevent harm to the health, safety, public welfare and the environment which may result from this threat of release..." pursuant to the Massachusetts Oil and Hazardous Material and Release Prevention and Response Act. The Notice of Responsibility further stated that the site represented "a clear threat of release of oil and hazardous materials and threats to health, safety, public welfare, and the environment."

On September 6, 1994, and again on December 15, 1995, Samson Hydrocarbons served Notices of Claim on Grace seeking indemnity for costs related to the Otis Pipeline. Grace assumed responsibility for the matters covered by the Notices pursuant to the Purchase Agreement. Grace accepted its indemnity obligations and performed work required by the MDEP.

In a letter dated August 27, 2001, at about the time a status report was due to the MDEP, Grace notified Samson Hydrocarbons that due to Grace's bankruptcy, it would no longer perform the remedial actions associated with the Otis Pipeline. Based on Grace's withdrawal, the MDEP required Samson Hydrocarbons to complete the response activities related to the Otis Pipeline.

On April 30, 2002, the United States Department of Justice asserted claims against Samson Hydrocarbons for remediation costs of the Otis Pipeline site in the amount of $62,000,000.00 (the Department of Justice asserts that it has spent approximately $42 million and expects to spend another $20 million remediating the site). On May 14, 2002, Samson Hydrocarbons served another Notice of Claim on Grace seeking to be indemnified for costs related to the Otis Pipeline.

To date, in defending itself in matters involving the Otis Pipeline, Samson Hydrocarbons has paid attorneys' fees and costs totaling $144,299.48. All of these fees and costs were paid after Grace filed for bankruptcy protection. The breakdown of attorneys' fees and costs is as follows:

Attorney/Firm	Total Invoices[2]
Susan W. Gable	$68.50
Locke Liddell & Sapp LLP	$70,206.95
Goultston & Storrs	$33,635.49
GZA Geoenvironmental, Inc.	$49,638.64
International Legal Imprint	$75.54
Ridgway's	$224.36
	$144,299.48

Pursuant to Article XIII of the Purchase Agreement and Paragraph 1.D. of the 1998 Agreement, Samson Hydrocarbons asserts a claim for indemnification for attorney fees' and costs paid to date in the amount of $144,299.48. Samson Hydrocarbons also asserts a claim for (i) all future attorneys' fees and costs that it will incur in defending itself in matters related to the Otis Pipeline; (ii) remediation costs, if any, that it becomes obligated to pay in connection with the Otis Pipeline; (iii) amounts reimbursed to the Commonwealth of Massachusetts and or the United States for response and/or remediation costs incurred as a result of alleged leaks from the Otis Pipeline; and (iv) any other amounts required to be paid to any governmental or private party as a result of alleged leaks from the Otis Pipeline.

B. Fort Peck Administrative Orders

The Environmental Protection Agency ("EPA") issued two Emergency Administrative Orders ("EAO"s) with respect to Fort Peck, Montana. The Second Amended Emergency Administrative Order, SWDA-8-99-68, issued November 30, 2000 (the "First EAO") initiated an EPA enforcement action against Samson and others, alleging violations of the Safe Drinking Water Act, purportedly resulting from salt water disposal operations conducted in the East Poplar

[2] The invoices described in this attachment are too voluminous to attach; however, copies may be obtained by requesting them from Samson Hydrocarbons' attorneys.

Unit, Roosevelt County, Montana.[3] Grace Petroleum (now Samson Hydrocarbons) at one time owned a working interest in the East Poplar Unit. According to the First EAO, the conditions at the East Poplar Unit threaten imminent and substantial endangerment.

Grace accepted Samson's indemnity demand, began prosecuting an appeal of the First EAO in the United States Court of Appeals for the Tenth Circuit (Case No. 01-9500) and continued defending Samson after the filing of Grace's bankruptcy petition. On June 27, 2001, Grace notified Samson that it would no longer defend Samson with respect to the First EAO.

The second EAO (issued September 20, 2001) named Samson Hydrocarbons (but not Samson Investment), among others, as a respondent. The second EAO arises out of the same facts and circumstances as the First EAO and requires that Samson Hydrocarbons and others perform several studies of the area and build a pipeline to provide drinking water. Samson Hydrocarbons sent a Notice of Claim to Grace and demanded indemnity. Grace declined to accept its indemnity obligation, forcing Samson Hydrocarbons to defend the matter. To date, in defending itself in matters involving the Fort Peck Administrative Orders and participating in the studies and the other requirements of the Fort Peck Administrative Orders, Samson Hydrocarbons has paid attorneys' fees and costs totaling $378,308.01. The great majority of these fees and costs (approximately $362,556.87) were paid after Grace filed for bankruptcy protection. The breakdown of attorneys' fees and costs is as follows:

Attorney/Firm	Total Invoices
Blank Rome Comisky & McCauley, LLP	$2,123.00
Locke Liddell & Sapp LLP	$196,889.25
Atkins Benham	$57,448.65
Land & Water Consulting, Inc.	$102,074.30
Lonewolf Energy, Inc.	$6,167.59
Murphy Exploration & Production Co.	$8,126.82
Southern International, Incorporated	$5,478.40
	$378,308.01

Pursuant to Article XIII of the Purchase Agreement, Samson Hydrocarbons asserts a claim for indemnification for attorneys' fees and costs it has paid in defending itself in connection with the Fort Peck Administrative Orders in the amount of $378,308.01. Samson Hydrocarbons also asserts a claim for (i) all future attorneys' fees and costs that it incurs in defending itself in connection with the Fort Peck Administrative Orders; (ii) all costs it incurs in connection with the construction of the pipeline (scheduled to begin in 2003); (iii) any remediation costs, judgment or settlements it becomes obligated to pay in connection with the Fort Peck Administrative Orders; and (iv) any other amounts Samson Hydrocarbons is required to pay to any governmental or private party in connection with the Fort Peck Administrative Orders.

[3] The predecessor to the First EAO named Grace. The EPA substituted Samson Hydrocarbons for Grace on or about November 30, 2000, after learning of the Purchase Agreement. Grace is no longer directly involved with the Fort Peck Administrative Orders.

C. Youpee, et.al. v. Murphy Exploration & Production, et.al.; Case No. CV-98-108-BLG-JDS (U.S. D. C. – MT) (the "Youpee Litigation")

In the Youpee Litigation, the Plaintiffs sought damages for alleged contamination of certain real property, purportedly resulting from certain salt water disposal operations in the East Poplar Unit, Roosevelt County, Montana. This is a private party lawsuit involving many of the same issues as the Fort Peck Administrative Orders described above. Samson Hydrocarbons demanded indemnity from Grace with respect to the Youpee Litigation. Grace accepted the indemnity demand and began defending Samson Hydrocarbons in the Youpee Litigation. Grace subsequently withdrew its defense after it filed for bankruptcy protection, requiring Samson Hydrocarbons to pay attorneys' fees to defend itself and to incur expenses in resolving the Youpee Litigation. On May 9, 2002, pursuant to a Settlement Agreement and General Release (the "Youpee Settlement Agreement"), the court entered an Order of Dismissal with Prejudice.

Pursuant to the Youpee Settlement Agreement, Samson Hydrocarbons paid $210,000.00 into escrow to pay for the remediation of the property that was the subject of the Youpee Litigation. In addition to the $210,000.00 paid into escrow under the Youpee Settlement Agreement, Samson Hydrocarbons paid substantial attorneys' fees and costs. All of these fees and costs were paid after Grace filed for bankruptcy protection. The breakdown of attorneys' fees and costs is as follows:

Attorney/Firm	Total Invoices
Dorsey & Whitney LLP	$58,573.68
Lonewolf Energy, Inc.	$13,545.66
MNG, Inc.	$3,601.42
Petersen, Jones	$4,473.27
Ridgway's	$78.45
Sam J. Cerny	$21,292.00
Wold Law Firm, P.C.	$2,741.53
	$104,306.01

Pursuant to Article XIII of the Purchase Agreement, Samson Hydrocarbons asserts an indemnity claim for the $210,000.00 Samson Hydrocarbons paid pursuant to the Youpee Settlement Agreement. Samson Hydrocarbons also asserts a claim for attorney fees' and costs paid in the amount of $104,306.01. Grace's indemnity obligation to Samson Hydrocarbons arising from the Youpee Litigation totals $314,306.01.

D. Casmalia Site

Samson Hydrocarbons has been listed by the EPA as a potentially responsible party ("PRP") with respect to the Casmalia Site. On or about March 11, 2000, Grace, which the EPA had listed as a PRP at Casmalia, alleged in a letter to Samson Hydrocarbons that it, rather than Grace, was the correct PRP for alleged disposal of oil field waste allegedly made at Casmalia in earlier years from wells partially owned at the time by Grace Petroleum.

On April 26, 2000, and again on November 15, 2000, Samson Hydrocarbons sent Notices of Claim to Grace seeking indemnification under the Purchase Agreement. Samson Hydrocarbons also filed a lawsuit against Grace to compel Grace to indemnify Samson Hydrocarbons for its costs incurred in connection with the Casmalia Superfund Site. This litigation was temporarily mooted by the Casmalia Defense Agreement (described in Section I, above) and is subject to the automatic stay.

The Casmalia Site was allegedly appropriate for the waste when the waste was delivered, but has (allegedly) subsequently degraded. The EPA sought to hold Samson Hydrocarbons, among others, liable for the costs of remediation. On June 29, 2001, Samson Hydrocarbons, along with certain other entities that the EPA alleged are liable at Casmalia, conditionally agreed, without admission of liability, to resolve the claims made against them, subject negotiating a mutually acceptable Consent Decree. Grace participated in the negotiations up through June 14, 2001, when it notified Samson Hydrocarbons that it would not participate in any settlement. Samson Hydrocarbons gave Grace additional notice about the conditional agreement on June 27, 2001. Samson Hydrocarbons, among others, began negotiating a Consent Decree with the Department of Justice. During the negotiation of the Consent Decree, on January 28, 2002, Samson Hydrocarbons again gave notice to Grace of the negotiations and sought Grace's approval on the settlement. On or about September 7, 2002, Samson sent a copy of the final Consent Decree to Grace, which Samson had not yet agreed to enter into, seeking approval of the settlement. Grace did not respond. On or about September 20, 2002, Samson Hydrocarbons, the EPA and others entered into a Consent Decree resolving the environmental issues at the Casmalia Site.

Pursuant to the Consent Decree entered into by Samson Hydrocarbons, the EPA and others, Samson Hydrocarbons paid (post-petition) $6,067,232.00 into escrow to be used towards the remediation of the pollution at the Casmalia Site.[4] In addition to the $6,067,232.00 that Samson Hydrocarbons has paid into escrow pursuant to the Consent Decree, Samson Hydrocarbons has paid attorneys' fees and costs totaling $778,534.07. The majority of these fees and costs (approximately $641,295.34) were paid after Grace filed for bankruptcy protection. The breakdown of attorneys' fees and costs is as follows:

Attorney/Firm	Total Invoices
Chubb	$387,875.73
Locke Liddell & Sapp LLP	$385,292.17
Maverick Petroleum, Inc.	$4,138.40
Primark Disclosure	$80.50
Ridgway's	$147.27
Smiland & Khachigian	$1,000.00
	$778,534.07

[4] Samson Hydrocarbons believes that the entities contributing to the escrow formed pursuant to the Consent Decree (the "CNC") will file a proof of claim as a group. The United States also intends to file a proof of claim with respect to the Casmalia Site. Both the United States and the CNC will withdraw their proofs of claim when the Consent Decree becomes final.

Pursuant to the Casmalia Defense Agreement and Article XIII of the Purchase Agreement, Grace is obligated to indemnify Samson Hydrocarbons for both the costs of remediation and all of its attorneys' fees and costs associated with the Casmalia Site. Grace's indemnity obligation to Samson Hydrocarbons associated with the Casmalia Site currently totals $6,845,766.07. If, for any reason, the Consent Decree should not ultimately be effective, Samson Hydrocarbons may be forced to pay additional amounts to resolve the issues related to the Casmalia Site and its claim may increase considerably.

E. Exxon Corp. v. Samson Hydrocarbons Co., Case No. CJ-99-390(Ok. Dist. Ct.) (the "Exxon Litigation")

On May 28, 1999, the Exxon Corporation filed suit against Samson Hydrocarbons, seeking indemnification for environmental response costs associated with real property sold by Samson Hydrocarbons to Exxon Corporation. Pursuant to the Purchase Agreement, Grace is obligated to defend Samson Hydrocarbons in the Exxon Litigation. Samson Hydrocarbons served a Notice of Claim upon Grace seeking indemnification in the Exxon Litigation and Grace undertook the defense of the Exxon Litigation. Just before the trial in the Exxon Litigation, Grace stopped defending Samson Hydrocarbons in the Exxon Litigation.

In connection with the Exxon Litigation, Samson Hydrocarbons has paid substantial attorneys' fees and costs. Most of these fees and costs (approximately $166,311.38) were paid after Grace filed for bankruptcy protection. A detailed breakdown of the attorneys' fees and costs is as follows:

Attorney/Firm	Total Invoices
Ballard Productions, Inc.	$1,200.00
Daniel B. Stephens & Associates	$30,982.88
Dauphin & Rodgers	$4,218.14
Huffman & Robinson, Inc.	$1,205.50
IKON Office Solutions	$14,149.41
Legal Graphics, Inc.	$2,808.84
McKinney & Stringer	$92,056.02
Sam Cerny	$25,400.00
Susan R. Rogers, C.S.R.	90.60
Taylor, Burrage, Foster, et. al.	$3,363.59
Tulsa Freelance Reporters	$45.00
	$175,519.98

Pursuant to Article XIII of the Purchase Agreement, Samson Hydrocarbons asserts a claim for attorneys' fees and costs incurred in defending itself in the Exxon Litigation in the amount of $175,519.98. Samson Hydrocarbons also asserts a claim for (i) all future attorneys' fees and costs which it incurs in defending itself from the Exxon Litigation; (ii) for any remediation costs, judgments or settlements it becomes obligated to pay in connection with the Exxon Litigation; and (iii) any other amounts Samson Hydrocarbons is required to pay to any governmental or private party in connection with the Exxon Litigation.

F. <u>Ellison v. FPC Disposal, Inc.</u>, Case No. CV-99-151-01, (Ok. Dist. Ct.) (the "Ellison Litigation")

On November 21, 2000, Jackie Eugene Ellison and Marcia Ellison filed their Second Amended Petition seeking damages for alleged groundwater contamination, against, *inter alia*, Samson Hydrocarbons. On January 3, 2001, Samson Hydrocarbons sent its notice of claim to Grace seeking indemnification for its attorneys' fees and costs and for environmental response costs associated with the Ellison Litigation.

Pursuant to Article XIII of the Purchase Agreement, Samson Hydrocarbons asserts a claim for attorneys' fees and costs in connection with the Ellison Litigation. Samson Hydrocarbons has paid attorneys' fees and costs in the amount of $60,689.15. Most of these fees and costs (approximately $48,405.00) were paid after Grace filed for bankruptcy protection. Samson Hydrocarbons also asserts a claim for (i) all future attorneys' fees and costs which it incurs in defending itself in the Ellison Litigation; (ii) any remediation costs, judgments or settlements it becomes obligated to pay in connection with the Ellison Litigation; and (iii) any other amounts Samson Hydrocarbons is required to pay to any governmental or private party in connection with the Ellison Litigation.

G. <u>Petro Resources, Inc. v. N.Y. Hillside, Inc., et al.</u>, Case No. BC 222456, (California Sup. Ct.) (the "Placerita Litigation")

In July 2001, NY Hillside, Inc., a defendant and third-party plaintiff in the above-described action, asserted a third party claim against Samson Hydrocarbons, claiming that Samson Hydrocarbons should assist in certain environmental clean-up to be performed at the Placerita Field. Samson Hydrocarbons demanded indemnity, but Grace declined to accept it. NY Hillside asserted that Samson Hydrocarbons was liable for equitable contribution and equitable indemnity based on Grace Petroleum's former working interest and net revenue interest in 5 leases in the Placerita Field.

In December 2001, Samson Hydrocarbons entered into a Settlement Agreement and Mutual Release settling the Placerita Litigation. Pursuant to the Settlement Agreement and Mutual Release, Samson paid $25,000.00 to N.Y. Hillside, Inc. in full satisfaction of the claims against it. In addition to the $25,000.00 paid as part of the Settlement Agreement and Mutual Release, Samson Hydrocarbons paid attorneys' fees and costs totaling $14,885.90, nearly all (approximately $13,992.75) post-petition. Pursuant to Article XIII of the Purchase Agreement, Samson Hydrocarbons has an indemnity claim against Grace based upon the costs its paid in the Placerita Litigation in the amount of $39,885.90.

III.

CONCLUSION

Samson Hydrocarbons has incurred substantial liability and paid significant sums in defending, and in some cases, paying claims for which Grace is obligated to indemnify Samson Hydrocarbons. To date, as described more fully above, Samson Hydrocarbons has paid the following fees and costs (most of them post-petition, as set forth in detail above) for which Grace is required to indemnify Samson Hydrocarbons:

Otis Pipeline Litigation	**$144,299.48**
Fort Peck Litigation	**$378,308.01**
Casmalia Litigation	**$6,845,766.07**
Youpee Litigation	**$314,306.01**
Exxon Litigation	**$175,519.98**
Ellison Litigation	**$60,689.15**
Placerita Litigation	**$39,885.90**
Total:	**$7,958,774.60**

Pursuant to Agreements, Samson Hydrocarbons has a claim against Grace for indemnity in the current amount of $7,958,774.60. Samson Hydrocarbons also asserts a claim for (i) all future attorneys' fees and costs which will be incurred in defense of outstanding litigation; (ii) for any remediation costs, judgments or settlements it may become obligated to pay in connection with the matters described above; (iii) any other amounts Samson Hydrocarbons is required to pay to any governmental or private party in connection with the above-described matters and (iv) for any defense costs, attorneys' fees, remediation costs, judgments or settlements Samson Hydrocarbons incurs for any others matters that may arise for which Grace is obligated to indemnify Samson Hydrocarbons.

Samson Hydrocarbons' indemnity claims pursuant to the Agreements are entitled to administrative priority status. Samson Hydrocarbons is filing proofs of claim before the bar date in order to protect itself in the event that the court determines (which Samson Hydrocarbons contends it should not) that Samson Hydrocarbons' indemnity claims are not entitled to administrative priority and constitute unsecured claims.

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re W.R. GRACE & CO , et al
Case No. 01-11139-(JKF)-11

DOCUMENTS APPENDED TO CLAIM

On June 23, 2006 document(s) were appended to Claim Number **13946 and 13947** for the following reason(s)

- ☐ Stipulation and Order
- ☒ Litigation Summary prepared by Richard Finke
- ☐ Change of Address
- ☐ Withdrawal Notice
- ☐ Other Docket Number ###

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LITIGATION CASE SUMMARY

1 CASE NAME, NUMBER AND JURISDICTION

Grace Energy Corp v Kaneb Pipe Line Partnership, et al ,
Cause No 97-5135-J, 191st District Court, Dallas County, Texas

2 COUNSEL

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3 SUMMARY DESCRIPTION

Grace Energy brought suit to determine the ownership of, and responsibility for, a leaking out-of-service jet fuel pipeline located in the Cape Cod area In 1993, Grace Energy sold its Grace Petroleum subsidiary to Kaneb In 1995 and 1997, the Massachusetts Department of Environmental Protection and the United States Department of Justice made cleanup demands related to alleged pipeline leaks Grace Energy brought this declaratory judgment action to determine that the liabilities for the pipeline were transferred to Kaneb and that Grace is entitled to indemnification from Kaneb for clean up costs

4 STATUS

The case was tried to a jury in May 2000 The jury's findings, expressed as answers to special interrogatories, proved inconclusive Although the court held that the pipeline was transferred to Kaneb, it also found that Grace is not entitled to indemnification from Kaneb for the environmental cleanup costs on the ground that Grace breached one section of the 60-page Merger Agreement (failure to list the pipeline on a schedule of Real Property) Both sides have filed notices of appeal The briefing timetable has not yet commenced due to a delay in the completion of the transcribed record

5 CASE DISPOSITION VALUE

$5 million, i e , Grace is willing to pay that much to Kaneb for an unconditional agreement by Kaneb to assume the costs of remediation

6 RECOMMENDATION

The case is not subject to the automatic stay Since the anticipated total cost of remediating the area around the leaking pipeline is estimated at $50-$100 million, Grace Energy should pursue its appeal

R C F

UPDATE (3/9/04)

By order dated May 7, 2001, the Texas Court of Appeals abated the appeals after receiving notice that Grace Energy was in Ch 11.

No proof of claim filed by Kaneb Pipe Line concerning the subject of this litigation

On April 30, 2002, the U S Department of Justice asserted $62 million in remediation cost claims against Samson Hydrocarbons Samson has filed a contractual indemnity proof of claim, claim no. 13947, that seeks to recover, among other things, attorneys' fees and costs of $144,299.48 and all future remediation and defense costs

R.C F.

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LITIGATION CASE SUMMARY

1 CASE NAME, NUMBER AND JURDISICTION

Exxon Corp v Samson Hydrocarbons Co ,
Civil Action No CJ-99-390, District Court, Creek County, Oklahoma

2 COUNSEL

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Counsel for Exxon Corp

3 SUMMARY DESCRIPTION

Exxon seeks indemnification from Samson for amounts paid in settlement to landowners and for cleanup costs, all in connection with groundwater contamination from oil field operations The oil and gas properties in question had been sold to Exxon by Grace Petroleum in 1985 Grace Petroleum was sold to Samson in 1993 Grace is involved by reason of an indemnification agreement with Samson relating to its purchase of Grace Petroleum

4 STATUS

The parties are engaged in expert discovery The case has a trial date of September 2001

5 CASE DISPOSITION VALUE

None Prior to the Chapter 11 filing, Grace was prepared to settle Exxon's claims for approximately $200,000, Exxon will be seeking approximately $4 million in damages

6 RECOMMENDATION

Do nothing Allow the case to proceed to resolution Resolve any claim by Samson in the bankruptcy proceedings

R C F

UPDATE (3/9/04)

By order dated January 22, 2002, Judge Fitzgerald extended the bankruptcy court's stay of litigation to include this case

Samson has filed a contractual indemnity proof of claim, claim no. 13947, that seeks to recover, among other things, attorneys' fees and costs of $175,519 98 and all future remediation and defense costs.

R C F.

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LITIGATION CASE SUMMARY

1 CASE NAME, NUMBER AND JURISDICTION

Cary G Youpee, et al v Murphy Exploration & Production Co , Samson Hydrocarbons Co , et al , Cause No CV-98-108-BLD-JDS, United States District Court, Billings Division, Montana

2 COUNSEL

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Counsel for Plaintiffs

3 SUMMARY DESCRIPTION

Plaintiffs seek damages for alleged salt water contamination of wells and groundwaters resulting from oil and gas operations Grace's involvement is as indemnitor to Samson Hydrocarbons, which purchased Grace Petroleum in 1993 In 1986, Grace Petroleum had sold certain oil and gas leases to Murphy Oil Company

4 STATUS

The case is moving slowly, with the parties engaged in fact discovery Plaintiffs have requested mediation and will not provide a damages amount until mediation

5 CASE DISPOSITION VALUE

None

6 RECOMMENDATION

Do nothing Allow the case to proceed to resolution Resolve any claim by Samson in the bankruptcy proceedings

R C F

UPDATE (3/9/04)

By order dated January 22, 2002, Judge Fitzgerald extended the bankruptcy court's stay of litigation to include this case.

This case settled as of May 9, 2002. Samson has filed a contractual indemnity proof of claim, claim no 13947, that seeks to recover, among other things, the settlement amount of $210,000 00 and attorneys' fees and costs of $104,306 01, for a total of $314,306 01.

R.C F